

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-03-3419.M2**

May 2, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M2-03-0850-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Orthopedic Surgery. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ is a 32-year-old woman who was injured at work while stacking car batteries. She was removing the batteries from a pallet and stacking them when she developed pain in her lower back. She was seen and treated by ___. She had physical therapy and medication for her treatment. Originally, she stated that there was no pain radiating into her legs, but on ___ she complained of numbness and pain in the right lower extremity. This complaint was made on September 6, 2002 to the physical therapist, ___. On September 9, 2002 she reported that she was having parasthesia down the right leg. This complaint was made to ___, a physician's assistant. On September 12th, the patient had an EMG to try to determine if there was radiculopathy, and it was normal. She continued to complain of low back pain and an MRI was ordered on her back after the back pain continued. This MRI was done on January 7, 2003, and it demonstrated a 3 mm disc herniation at L5/S1 that did contact the first sacral nerve root, according to the radiologist. He stated that this could cause some radiculopathy. She also had a 3 mm central disc herniation at L4/5. This central herniation was noted to indent the dural sac. The patient was continued on extensive physical therapy and stabilizing exercises in physical therapy. She just simply did not respond to conservative treatment. She apparently had subjective complaints without much objective evidence of problem. The only neurological deficit that was recorded in

the record was on _____. The physical therapist reported a diminished right patellar reflex and reported that she was having right lower extremity pain.

_____ referred the patient to _____ on October 28, 2002. _____, a pain management specialist, has now requested that she have an epidural steroid injection, since she has not improved.

REQUESTED SERVICE

A lumbar epidural steroid injection X1 is requested for this injured worker.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The records provided were somewhat difficult to interpret, but they do report some complaints that are referable to radicular pain radiating down the right lower extremity. The epidural steroid injections would be indicated only if the patient had clear-cut radicular complaints. Her MRI performed on January 7, 2003 reveals disc herniations at L4/5 and L5/S1 and these herniations do contact the S1 nerve root and the dural sac also. The reviewer finds that the record supports the fact that she has radicular pain and she might very well respond to an epidural steroid injection. She has certainly not responded to present treatment, which is physical therapy and exercise.

The reviewer therefore finds that the epidural steroid injection is reasonable and necessary.

_____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. _____ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of _____, I certify that there is no known conflict between the reviewer, _____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

_____ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective **spinal surgery** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other **prospective (preauthorization) medical necessity** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d). A request for a hearing should be sent to: Chief Clerk of Proceedings,

Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 2nd day of May 2003.